

**REPORT ON  
CLERK OF THE CIRCUIT COURT  
of the  
COUNTY OF POWHATAN, VIRGINIA  
WILLIAM E. MAXEY, JR.**

**FOR THE PERIOD  
OCTOBER 1, 2003 THROUGH DECEMBER 31, 2004**



## TABLE OF CONTENTS

	<u>Pages</u>
AUDIT LETTER	1-2
INTERNAL CONTROL AND COMPLIANCE FINDINGS AND AUDITOR'S RECOMMENDATIONS	3-4
CLERK'S RESPONSE AND CORRECTIVE ACTION PLAN	



# Commonwealth of Virginia

**Auditor of Public Accounts**

**P.O. Box 1295**

**Richmond, Virginia 23218**

**Walter J. Kucharski, Auditor**

March 2, 2005

The Honorable William E. Maxey, Jr.  
Clerk of the Circuit Court  
County of Powhatan

Board of Supervisors  
County of Powhatan

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the County of Powhatan for the period October 1, 2003 through December 31, 2004.

Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies. However, our audit was more limited than would be necessary to provide assurance on the internal controls or on overall compliance with applicable laws, regulations, and policies.

Court management has responsibility for establishing and maintaining internal controls and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

Our audit was more limited than would be necessary to provide assurance on internal controls or to provide an opinion on overall compliance with laws and regulations. Because of inherent limitations in internal controls, errors, irregularities, or noncompliance may nevertheless occur and not be detected. Also, projecting the evaluation of internal controls to future periods is subject to the risk that the controls may become inadequate because of changes in conditions or that the effectiveness of the design and operation of controls may deteriorate.

The results of our tests found the Court properly stated, in all material respects, the amounts recorded and reported in the financial management system.

However we noted certain matters involving internal control and its operation that we consider to be reportable conditions. A reportable condition involves a matter coming to our attention relating to a deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The reportable conditions are discussed in the section titled "Internal Control and Compliance Findings and Auditor's Recommendations."

We do not believe these conditions are material weaknesses. A material weakness is a significant deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal accountability and go undetected.

The results of our tests of compliance with applicable laws and regulations disclosed an instance of noncompliance that is required to be reported. This instance of noncompliance is discussed in the section entitled "Internal Control and Compliance Findings and Auditor Recommendations."

We discussed these comments with the Clerk on March 2, 2005 and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:slb

cc: The Honorable Thomas V. Warren, Chief Judge  
Carolyn Cios, County Administrator  
Bruce Haynes, Executive Secretary  
Compensation Board  
Paul Delosh, Director of Technical Assistance  
Supreme Court of Virginia  
Martin Watts, Court Analyst  
Supreme Court of Virginia  
Director, Admin and Public Records  
Department of Accounts

## INTERNAL CONTROL AND COMPLIANCE FINDINGS AND AUDITOR'S RECOMMENDATIONS

The following findings are reportable internal control matters that could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability. The Clerk's response and written corrective action plan to remediate this finding are included as an enclosure to this report.

### Strengthen Accounts Receivable Procedures

The Clerk does not establish accounts receivable on the case management system until after receiving the billing from court appointed attorneys. This often results in delays between final case disposition and the recording of the accounts receivable. We found that in nine of 20 receivables tested, the Clerk delayed recording the receivable in the system for periods up to two months after final case disposition. Promptly establishing accounts receivable is a vital process in the effort to collect fines and costs. The Clerk should revise the court's procedure of waiting for the billings from the court appointed attorneys and set up accounts receivable immediately after final case disposition. This will help increase the likelihood of collecting unpaid fines and costs.

### Properly Enter Unpaid Costs in the Judgment Lien Docket

As noted in our previous two audits, the Clerk still does not consistently enter unpaid fines and costs in the Judgment Lien Docket as required by Section 8.01-446 of the Code of Virginia. The Clerk failed to enter judgments totaling \$4,538 for five of 20 unpaid cases tested. In 12 other cases, we noted delays of up to two months in entering the judgments. To maximize collections, the Clerk should promptly record all unpaid fines and costs in the Judgment Lien Docket Book.

The following is a finding of noncompliance that is required to be reported.

### Monitor and Disburse Liabilities

As noted in our previous two audit reports, the Clerk failed to disburse the funds associated with ended condemnation cases. In addition to the two cases previously noted, we found a third ended case with undistributed funds during the current audit. Whenever a case concludes, the Clerk should distribute condemnation funds timely in accordance with Section 25.1-240 of the Code of Virginia.

Additionally, the Clerk continues to hold one other condemnation case noted in the previous report that is now over nine years old with no action. Since the Clerk is holding these funds, we recommend that he monitor these accounts and take timely action to properly dispose of the funds. Although Clerks of Court cannot disburse any monies associated with condemnation funds until the case closes and there is a court order, staff should maintain correspondence with the attorneys, plaintiffs and defendants involved to assist in the timely resolution of the case. The case files should include and properly document all correspondence.

Finally, we found where the Clerk is still holding civil bonds totaling more than \$1,100 up to five years after the cases concluded or had no action. These funds are potentially eligible for escheatment to the Commonwealth. The Clerk should review liability accounts on a continual basis. When the Clerk cannot locate the recipients, he should send the funds to the state as unclaimed property in accordance with Section 55-210.12 of the Code of Virginia.

# Circuit Court of Powhatan County

CLERK'S OFFICE  
P.O. Box 37  
Powhatan, VA 23139  
(804) 598-5660

ELEVENTH JUDICIAL CIRCUIT  
THOMAS V. WARREN  
PAMELA S. BASKERVILL  
JAMES F. D'ALTON, JR.  
JUDGES

WILLIAM E. MAXEY, JR.  
CLERK

March 14, 2005

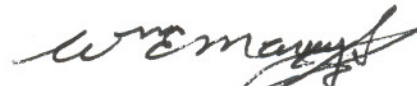
James M. Shepard, CPA  
Audit Director  
Auditor of Public Accounts  
P. o. Box 1295  
Richmond, VA 23218

Re: Response to AUDIT REPORT (DRAFT)  
Period 01/Oct/03 thru 31/Dec/05

Dear Mr. Shepard:

We enclose herewith our responses to the subject audit report that was received by us from your office.

Very truly yours,



William E. Maxey, Jr.  
Clerk

WEMjr/kcp

Enclosure

MAR 15 '05 AM 11:42

### Strengthen Accounts Receivable Procedures

The Clerk does not establish accounts receivable on the case management system until after receiving the billing from court appointed attorneys. This often results in delays between final case disposition and the recording of the accounts receivable. We found that in nine of 20 receivables tested, the Clerk delayed recording the receivable in the system for periods up to two months after final case disposition. Promptly establishing accounts receivable is a vital process in the effort to collect fines and costs. The Clerk should revise the court's procedure of waiting for the billings from the court appointed attorneys and set up accounts receivable immediately after final case disposition. This will help increase the likelihood of collecting unpaid fines and costs.

### RESPONSE

We have revised our procedure and are now entering all fines & costs in the case management system immediately after the final disposition of the case and enter same in the Judgment Lien Docket Book. This, of course, means that upon receipt of the Court-appointed Attorney's voucher for fees allowed, we enter these amounts and must make an amended entry in the Judgment Lien Docket Book.

The Clerk will discuss with the Court the idea of entering an order setting the number of days in which the attorneys have to file the voucher.

### Properly Enter Unpaid Costs in the Judgment Lien Docket

As noted in our previous two audits, the Clerk still does not consistently enter unpaid fines and costs in the Judgment Lien Docket as required by Section 8.01-446 of the Code of Virginia. The Clerk failed to enter judgments totaling \$4,538 for five of 20 unpaid cases tested. In 12 other cases, we noted delays of up to two months in entering the judgments. To maximize collections, the Clerk should promptly record all unpaid fines and costs in the Judgment Lien Docket Book.

### RESPONSE

The response to this is partially covered above and in addition, we are assigning another deputy to help monitor the entries in the Judgment Docket Book.



### Monitor and Disburse Liabilities

As noted in our previous two audit reports, the Clerk failed to disburse the funds associated with ended condemnation cases. In addition to the two cases previously noted, we found a third ended case with undistributed funds during the current audit. Whenever a case concludes, the Clerk should distribute condemnation funds timely in accordance with Section 25.1-240 of the Code of Virginia.

#### RESPONSE

It is this Clerk's understanding that funds held by him are timely paid whenever he receives an order from the Court directing him to do so. I read nothing in Sec. 25.1-240 of the Code of Virginia that indicates otherwise.

Additionally, the Clerk continues to hold one other condemnation case noted in the previous report that is now over nine years old with no action. Since the Clerk is holding these funds, we recommend that he monitor these accounts and take timely action to properly dispose of the funds. Although Clerks of Court cannot disburse any monies associated with condemnation funds until the case closes and there is a court order, staff should maintain correspondence with the attorneys, plaintiffs and defendants involved to assist in the timely resolution of the case. The case files should include and properly document all correspondence.

#### RESPONSE

This Clerk's position is that the attorneys, petitioner, and land owners are all aware that these funds are held by the Court and know what needs to be done to receive the funds. We will, however, make an attempt, as time permits, to dispose of these funds.

Finally, we found where the Clerk is still holding civil bonds totaling more than \$1,100 up to five years after the cases concluded or had no action. These funds are potentially eligible for escheatment to the Commonwealth. The Clerk should review liability accounts on a continual basis. When the Clerk cannot locate the recipients, he should send the funds to the state as unclaimed property in accordance with Section 55-210.12 of the Code of Virginia.

#### RESPONSE

We will monitor these funds and if we are unable to locate the owners, we will escheat them to the Commonwealth on our next report.